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528 Federal Bldg.,
Los Angeles, Cal.,
May 28th, 1920.

Harry Chandler, Esq.,
Times Building,
Los Angeles, Cal.,

Dear Sir:

In accordance with your suggestion, submit herewith, on behalf of R. John W. Russell and myself and for consideration by the directors of the Tejon Ranch Syndicate, a statement of the situation of the Indians residing on the Tejon ranch and of the purposes of the Indian Service with relation to them.

(1) These Indians, now numbering from sixty to eighty persons, or perhaps a few more, are the remnants of a much larger tribe which at the time of the Spanish conquest occupied their present home and such adjacent territory and which has dwelt uninterruptedly, although in varying numbers, on the site of the ranch down to the present time.

(2) Under Spanish, Mexican and American law these Indians had and now have a title of occupancy and possession, i.e., they have the right to reside on the land, use it, and gain their livelihood from it, by all appropriate methods, without molestation by the owners of the fee title.

(3) Investigations made by the Indian Service show that from a period shortly after the Spanish conquest, if not before it, and at all times since, these Indians have been accustomed to live, in part at least, by agriculture and have also pastured horses and cattle on the land they occupied; in other words, agriculture and, to a lesser extent, cattle raising, were among the means by which they exercised their right of occupancy and possession, in addition to which, of course, they gathered and in part subsisted on roots, nuts and other natural products of the soil found on the mountainous part of their habitat.

(4) The Mexican rent covering the portion of the ranch property now occupied by these Indians stipulates that the grantees "must not prevent the cultivation and other benefits to the Indians now or hereafter established in said place."

(5) The decree of the Board of Land Commissioners confirming this rent, discards the above provision and says: "This restriction we have heretofore decided does not effect the right

of property, though it may create a right in favor of the Indians living on the land at the time the grant was made, to the extent actually occupied by them. This, however, is a question cognizable by another tribunal."

(6) The land now included in the ranch was exclusively held and used by these Indians at the time of the grant to an extent vastly greater than at present. In spite of the difficulty of proving the exact situation in earlier times, it can be definitely shown that from 600 to 900 acres were actually cultivated by them at and in the vicinity of their present home, and that the mountainous land adjoining, on which they ranged cattle and from which they obtained acorns, roots, etc., comprised at least from 4,000 to 5,000 acres.

(7) From this tract, as well as from the much more extensive area once occupied by them, these helpless people have been forced back by steady pressure exerted by owners of the ranch until the land used for cultivation by the survivors of the band does not now exceed 65 acres. The details of the process of repression are too lengthy for recapitulation here. By way of example, however, it may be stated that when an Indian has died, his house has been torn down, his improvements destroyed, and the land cultivated by him thrown into cattle range; that the Indians have been prohibited from keeping or pasturing cattle, and that land so used by them in the recent past has been fenced in by the ranch; that the ranch managers assume to say how many horses they shall keep; that their attempts to use the water of the stream running past their huts to irrigate their grape arbors, fruit trees and gardens has been interfered with or prevented; and that they have been prohibited from erecting better or more comfortable dwellings.

By these and similar measures the Indian population has been reduced within the measurably recent past from about 250 or 300 to the numbers hereinbefore stated.

All this, of course, not merely ignores but forcibly violates the Indian right and title of occupancy and possession.

(8) According to our information, this procedure has given rise to considerable feeling among the inhabitants of Bakersfield, including condemnation of the ranch management from one of the local pulpits. At our interview you appeared to believe that such attitude was due to misinformation or sentimentality. We do not believe that these people have been substantially misinformed, and such sentiment appears to those familiar with the facts to be both humane and justifiable.

It is possible that the oppressive acts above outlined have been carried out by subordinate on the ranch, without the orders or even to a extent without the knowledge of the Board of Directors. I now desire now to bring them specifically

to your notice and that of the Board.

(9) It may also be that the attitude of the management has been based on the idea that these Indians have no legal rights; that they are present only on sufferance and that the ranch owners could, if they would, evict them altogether.

This view we believe to be wrong, and we are prepared to test it in the courts.

We are familiar with the decision in the so-called Warner's Ranch case, but are of the opinion that it is easily distinguishable from the Nelson situation, and that even if it were not the attitude of the Supreme Court of the United States toward Indian questions and Indian rights has so changed since the date of that decision, that it now would not hesitate, if necessary, to reverse itself in order to do justice here.

(10) The Department of Justice has been requested by the Department of the Interior to bring suit in the Federal Court to protect these wards of the Government in their rights. We are here to commence such a suit and will, of course, carry it to the Supreme Court of the United States unless successful below. In it we will assert the Indian occupancy title not only to the small tract still under Indian cultivation, but to a much greater territory, once undoubtedly used by the Indians, subject to their right of possession and now needed by the tribe as at present constituted, but from which they have been forced. If we are successful, the fee title in the ranch owners will be permanently subject to the easement of undisturbed occupancy and possession by all of such Indians as care to return to or remain in their old home, in which possession they will be protected by injunction against all aggressions.

In short, it is the intention of the two departments, without further delay, permanently to define the rights of these Indians and definitely to settle their status. The purpose of this letter is to discover whether or not, as a business proposition, this can be done by amicable adjustment.

(11) Your fee title to any tract subjected to Indian possession will be of little value since that possession, protected by law against encroachment, will naturally be permanent.

What we would like the syndicate to consider, therefore, is whether it will not voluntarily grant to the United States for the permanent use of the Indians the fee to an area including their present home and reasonably sufficient for those now on the ranch and for any others of the same band formerly resident there who might desire to return.

The extent of acreage required would, of course, be a matter for negotiation, but if this method of solution should be adopted, the ordinary give and take of compromise would naturally result in agreement upon a smaller tract than that which we would claim and expect to secure if forced to litigate.

Your Board, in such event, would decide whether they would give the fee title or sell it, and while under ordinary circumstances we would hesitate to urge anyone to give anything of value to the Government for nothing, yet the past few years have offered many precedents for such course, in addition to which the records show that some, at least, of the former owners of the ranch regarded these Indians as a sort of hereditary charge upon the land. If similar principles of justice and humanity actuate the Board, they might well consider it seemly and patriotic to donate the fee title to a small fraction of their vast holdings, occupied from time immemorial by these Indians and their ancestors, to the United States as a permanent residence for the band under Government supervision and finally subject to allotment in severalty. Such action would be both just and generous, and would also win the respect and esteem of the surrounding community, if that be considered of any importance.

Furthermore, if our legal position is correct, and if the owners of the fee title have been at all times and still are under a legal as well as a moral obligation to leave to the Indians without molestation the lands they occupied, their encroachment upon that land and their restrictions upon its use by the Indians, constitute a legal wrong for which the United States is entitled to recover damages on behalf of the Indians. Such damages if recovered only for a short period in the past would much more than offset the value of the mere fee title, encumbered by the Indian title of possession and use. Such damages of course will be claimed if we are compelled to litigate.

(12) In our interview with you you referred to a rental of \$1 said to be paid by individual Indians, which you seemed to construe as an acknowledgement by them that they held under no independent right of occupancy, but as tenants merely. Our information is that this so-called payment has consisted of an arbitrary deduction of \$1 from the wages of Indians hired as employees upon the ranch. Even if the payment had been voluntary, no court would hold it to constitute an estoppel against ignorant and helpless persons not sui juris. While the manner in which the sum was actually exacted constitutes a clear case of duress, which you would find prejudicial and not helpful to our case.

(13) You also intimated that some political motive lay at the bottom either of the local criticism of the ranch management or of the present departmental activity. If this were true, it

would not matter, since the question is how a wrong can be remedied, and not what started inquiry into the wrong. However, I wish to assure you that the measures now being taken by the two departments are in the strict line of their legal duty, and to the best of my information and belief are totally free from any political motive or instigation.

(14) Reverting again to the ranch policy toward the Indians, I wish to point out a still more fundamental objection than those discussed earlier in this letter.

The Government's object with regard to these backward people is to train them to be independent and self-respecting citizens, capable of holding their own among and against their more fortunate white neighbors. It means to that end and are to secure them in their ownership of land, educate them and encourage them in habits of lawful acquisition and thrift. Every detail of the ranch policy, from the denial of their legal right to the houses they sleep in or the fruit trees they have planted to the refusal to permit them to improve their primitive huts or to acquire even the most modest cattle-holdings, is diametrically opposed to this. The Government's object is to make them men, and its policy has that tendency. Whatever be the object of the ranch policy, its result is to make them peons.

We do not suppose that you or the board have any such conscious purpose. We presume that you have been satisfied to leave the handling of the Indians in all its details to the Mexican ranch manager, and have not inquired closely into his methods or their results. Now that the matter is brought directly to your notice, however, we believe that all of you, as intelligent men will appreciate that untaught and helpless people of whatever race cannot in the United States be held in seonage, and, as well-meaning and humane men, will be anxious to make amends for past injustice by giving these Indians the opportunity of development and independence that is the right of all men in this country. We believe that you will find no surer means of redress than by acquiescing in our proposition and placing in the hands of the United States for the benefit of this band enough land for their reasonable use and support. Under Government supervision you will suffer no annoyance from them, while the services which they now render as riders and laborers on the ranch will not be interrupted.

At present the nearest school is some seven miles away, practically out of the reach of small children, with the result that most of them are growing up in ignorance of the English language. As you know, few of the adults can speak any language but Indian and a little Spanish, -- a condition which contributes not a little to their backwardness and helplessness. When their status is stabilized, a school-house will be promptly built for the children, the adults will

be secured in the possession of their real holdings and encouraged in habits of industry, and you will have a reservoir of increasingly intelligent, contented and reliable labor for the ranch. In dealing with the independence, happiness and elevation of human beings, however, we believe that you will consider the question from another standpoint than that of self-interest, and will recognize that you have here a rare opportunity to perform a valuable and lasting public service.

(15) We would appreciate a reply from the Board to our proposition, or a statement of any other proposal of settlement that it may care to make, as early as is reasonably convenient.

You may wish to consult your attorneys, and we shall at all times hold ourselves ready to discuss the legal or other aspects of the case with them if you or they so desire.

The purpose of this letter is to make clear that the situation of the Indians on the ranch must be rectified; that whatever readjustment is made must give them a permanent status, secure from pressure or molestation direct or indirect; but that the Government would welcome an amicable solution of the problem and wishes to ascertain whether any such solution is possible before resorting to the courts.

If you will send me the names and addresses of the Board members, I will send a copy of this letter to each; or, if you prefer, will send you copies for such distribution, if you will let me know the necessary number.

Very truly yours,

George A. H. Fraser

Special Assistant to the Attorney General.

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528 Federal Bldg.,
Los Angeles, Calif.,
July 12, 1920.

Harry Chandler, Esq.,
Times Building,
Los Angeles, Calif.

Tejon Indians.

Dear Sir:

Acknowledging your letter of July 7th and speaking for both Mr. Truesdell and myself, I beg leave to say that it has been and will be a pleasure to afford you and your representatives any information or other facility or courtesy in our power, consistently with our duty to the Government and the Tejon Indians.

(1) Your letter hinges upon the statement in the final paragraph that, in the opinion of your counsel, the Indians have no rights upon the ranch property except such as the owners may voluntarily concede to them. Taking this opinion, which doubtless coincides with the view long entertained by the ranch management, as correct, your letter proceeds, quite logically, on the theory that we are asking you to give permanent footing on the ranch to a band of interlopers who are or may be a source of annoyance and loss, and who in reality have been treated with forbearance since they might have been unconditionally expelled at any time.

I am sure, however, that a man of your experience has not failed to consider the possibility that, as we believe, counsel's opinion is wrong, and the results if this possibility becomes a certainty.

Large damages then become recoverable for the acts of repression which have gradually appropriated a large portion of the territory formerly occupied by the Indians, driven a great part of the herd from the ranch and restricted the remnant in the present use of their possessory right, and your fee title becomes permanently charged with the Indians' occupancy and use, protected by injunction, of a much greater area than they now hold.

The sole purpose of this correspondence is to ascertain whether you and your associates care to meet us half way, and by giving or even selling to the Government the fee title to a reasonable quantity of land for the Indians, avoid litigation, costly and protracted in any event, with its risk of heavy damages in addition, escape the establishment of the Indian occupancy title over a much more extensive acreage than a compromise would probably fix, and at the same time perform a generous and public spirited act, promotive of the independence and advancement of helpless people (who had their homes on the ground when your grantors obtained the fee title from the Mexican government), and consistent with your standing and reputation in the State.

Knowing nothing of the contents of your attorney's opinion, I will yet venture two conjectures regarding it:

One is that he has found no support for his views stronger than the Warner's Ranch case, to which we ourselves called his attention. That case, however, differs from ours in the vital particular that there the title passed from Mexico without any reservation of Indian rights, while here a right of use is definite-

ly reserved in the grant and recognized by the Board of Land Commissioners. No variance could be more fundamental.

As to its expressions of law, apparently adverse to our position, we believe them to be inconsistent with the statute of 1851 and ^{4p} variance with the recent and more liberal trend of the Supreme Court decisions on Indian matters. We feel that that Court will have no difficulty in distinguishing the Warner's Ranch case, nor hesitancy in overruling it if necessary, in line with its own views elsewhere announced.

My second conjecture is that counsel, if as able and painstaking in research as he appears to be, has not given you an unqualified opinion, but even from his standpoint has recognized that success in the Supreme Court cannot be predicted with confidence.

The foregoing is not, of course, an attempt to argue the law. It is merely intended to show that we have long since examined the main prop of your position and believe it to be unsound, and to indicate that, if litigation be necessary to remedy present conditions, we are ready to undertake it cheerfully and confidently. We invite you to view the probable result of such litigation from our side as well as your own and to consider it from the standpoint both of self-interest and of public service.

(2) We do realize that the Ranch Syndicate will incur much trouble and expense in sustaining the burden of such litigation throughout its various stages. We can better appreciate this by

reason of the trouble and expense which the Government has already incurred in accumulating evidence, investigating facts and examining law in connection with this case from the time when California was a part of New Spain down to the present. Indeed, the trouble and expense may be much greater than either of us now calculate, since if compromise should fail and thereafter our contemplated suit should also fail, it is our purpose to suggest to the Department of the Interior to acquire by condemnation enough of the territory in controversy for a permanent home for the Indians.

We are loath to saddle you with the burden of repeated suits, or any suit. We feel that the Government should move against private citizens with careful consideration for private rights. This, however, is a clear case. It has been carefully and patiently investigated. Repressive force has been exerted in the name of a wealthy and powerful syndicate, against ignorant and helpless people whom it is especially the legal and moral duty of the United States to protect. Occupying an insignificant corner of the vast ranch holdings where their ancestors have lived from time immemorial, they may not so much as own a cow to furnish milk for their young children; they may not keep a horse except in so far as such horses are serviceable to the ranch; they may not use water for irrigating their small gardens if a white man wants it; they may not use the lumber which they actually have on the ground to repair or rebuild their huts; they may not leave these huts untenanted without the risk or apparently the certainty that they will be pulled down or burned by order of the ranch manager; and, from time to time,

sufferance, that he may not increase them and that an authority, which he has neither the skill nor the power to resist, may at any time expel him and confiscate his holdings, as it has those of his fellows. Security is to the helpless the first incentive to thrift and independence, and security under Government control is what we are aiming to obtain for these Indians.

In speaking as you do, I am sure that you have in mind evils of Government administration of Indian affairs, involving neglect on the one hand and pauperization on the other, which did exist, but which have passed away. The present policy, even with regard to the landless Indian, is not to hand him a dole, but to put him on his feet; to acquire for him or give him a chance to acquire a little land and, by working, to accumulate a little property which will be securely his; to give him a practical education and to make him his own man. It is no longer an experiment; it is succeeding. You can see the results wherever Indians are found. Even if the paternalism of the ranch management were as benevolent as it has been harsh, it would merely produce servants, not independent men. One feature of this policy which will surely appeal to one holding your strongly individualistic views, is the gradual extinction of tribal holdings, with their communistic fettering of individuality, and the allotment of land in severalty, thus putting each Indian in a position to stand squarely on his own feet. It is to permit of this in the case of the Tejon Indians that we are anxious to obtain from the ranch syndicate by gift, purchase or compromise the fee title, and not merely to rest content with the

establishment by litigation of a perpetual right of tribal occupancy.

(4) I cannot bring myself to believe that permanent settlement of the Indians in the way proposed will involve loss to the ranch by cattle stealing or otherwise. Any tract secured will be of reasonable dimensions. It will be fenced in. It and its inhabitants will be under constant Government supervision and the ranch management will have every opportunity to watch it. The risk of theft of your cattle is negligible under circumstances where detection and punishment would be almost certain.

(5) You express surprise that the Government intends to pursue its contemplated course "in order that one bad Indian and one half-breed Mexican can collect a little graft money from the good Indians and live without work themselves." We do not understand or know anything about the situation indicated in the quotation, and would be glad of a statement of the facts. If anything questionable is going on among the Indians, we wish to know it, investigate it, and correct it.

(6) We will be glad to have you state your views at Washington, and will, subject to the approval of the Department of Justice, wait a reasonable time before instituting suit. We are sending a copy of this correspondence to the Attorney General, asking instructions in that particular, but we feel that in view of the long continuance of the present impossible conditions, no long delay should intervene before compromise is made or suit brought.

(7) The writer, after many years' experience in the practice of law, is of the opinion, in which you will probably coincide, that there are very few genuine controversies which business men can not settle between themselves more satisfactorily than the courts can for them. This ought to be one of them.

There is but one point on which there can be no give and take, namely, that the Government must obtain for the Indians permanent and undisturbed possession of an adequate tract under secure legal title.

This end can be pursued by a suit to establish the Indian occupancy title over your fee title to the extensive acreage occupied by the tribe at the time of the Mexican grant, coupled with demand for damages arising from the exclusion of the Indians and the use of this land by the ranch. If this succeeds, the results are obvious. If it fails, the fee to the present Indian holding, plus as much more as the band reasonably needs, can, none the less, be secured by condemnation. Either or both will, as you justly point out, involve great trouble and expense, extending probably over a series of years, with the inevitable result that in any event the Indians will be permanently established at greater or less cost and in a larger or smaller acreage. Or the matter can be adjusted speedily, amicably and cheaply by a settlement in which each side gets something and foregoes something.

Submitting the foregoing to you both as a business man and a good citizen, I am

Very truly yours,

George A. H. Fraser
Special Assistant to the Attorney General.